

ORDER NO. 3879

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Mark Acton, Vice Chairman;
Tony Hammond; and
Nanci E. Langley

Rule on Motions Concerning
Mail Preparation Changes

Docket No. RM2016-6

ORDER DENYING MOTION

(Issued April 28, 2017)

On April 11, 2017, the Postal Service filed a motion to suspend proceedings in the above-captioned docket.¹ No party filed a response to the Motion. The Motion fails to address any of the criteria necessary to justify a stay pending judicial review and is denied.

In evaluating motions to suspend proceedings pending judicial review, the Commission has previously considered factors similar to those articulated in *Virginia Petroleum Jobbers Ass'n v. Fed. Power Comm'n*, 259 F.2d 921, 925 (D.C. Cir. 1958).² The relevant factors include: (1) likelihood of success on the merits; (2) irreparable

¹ Motion of the United States Postal Service to Suspend Proceedings, April 11, 2017 (Motion).

² See Docket No. C2014-1, Order No. 2088, Order Denying Request for Injunctive Relief, June 5, 2014; see also Docket No. R2013-11, Order No. 2075, Order Denying Stay and Establishing Schedule for Reporting Requirements, May 2, 2014; Docket No. MC2008-1 (Phase II), United States Postal Service Motion for a Stay of Order No. 392 Relating to Mailing and Shipping Licenses, February 26, 2010, at 2 ("As the Commission has noted in the past, the factors to be considered in determining whether a stay of an agency order pending the resolution of judicial proceedings is warranted are set forth in *Virginia Petroleum Jobbers Ass'n v. FPC*, 259 F.2d 921, 925 (D.C.Cir.1958).").

harm to the requesting party; (3) irreparable harm to other parties if relief is granted; and (4) the public interest. See *Mills v. District of Columbia*, 571 F.3d 1304, 1308 (D.C. Cir. 2009); *Corning Sav. & Loan Ass'n v. Fed. Home Loan Bank Bd.*, 562 F.Supp. 279 (E.D. Ark. 1983).

The Postal Service asserts, in conclusory fashion, that the ability to comment on the “need for (and content of)” the proposed rules is dependent upon the resolution of the Postal Service’s petition for review currently pending before the United States Court of Appeals for the District of Columbia Circuit. Motion at 4. The Motion simply repeats the Postal Service’s arguments in disagreement with the Commission’s substantive standard articulated in Order Nos. 3047 and 3441 and does not provide any justification to warrant a stay.³ Accordingly, the Motion is denied.

It is ordered:

The Motion is denied.

By the Commission.

Ruth Ann Abrams
Acting Secretary

³ See Docket No. R2013-10R, Order Resolving Issues on Remand, January 22, 2016 (Order No. 3047); see also Docket No. R2013-10R, Order Resolving Motion for Reconsideration of Commission Order No. 3047, July 20, 2016 (Order No. 3441). The Postal Service also compares its current Motion to the Commission’s previous stay pending resolution of the Postal Service’s motion for reconsideration. See Order No. 3096, Order Holding Rulemaking in Abeyance, February 23, 2016. However, the previous stay was granted pending the Commission’s review of the Postal Service’s motion for reconsideration of Order No. 3047, not outside judicial review. Notably, after the Commission ruled on the Postal Service’s motion for reconsideration and reinstated the rulemaking, the Postal Service did not request a stay pending judicial review as it admittedly “agreed with the underpinnings of that proposed rule.” Motion at 3.